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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,551	11/24/2003	Gregg W. Leaverton	AHEQU.66263	4562
27629	7590	12/07/2004	EXAMINER	
FULWIDER PATTON LEE & UTECHT, LLP			POPOVICS, ROBERT J	
200 OCEANGATE, SUITE 1550			ART UNIT	
LONG BEACH, CA 90802			PAPER NUMBER	

1724

DATE MAILED: 12/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/720,551	Applicant(s) LEAVERTON	
	Examiner Robert J Popovics	Art Unit 1724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/17/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims of United States Patent No. 6,685,843

1. An internal filter for connecting water from a spa to the suction end of a spa water circulation system, said filter comprising: a filter body that includes a cylinder having a spa water inlet opening at one end and a spa water discharge orifice at its opposite end, the sides of such cylinder being formed with auxiliary spa water inlet openings; a filter bag that includes a cylindrical sheath which extends from the rear end of the filter body encompassing the exterior of the filter body, such filter bag also being formed with a pocket that extends concentrically inwardly from the front end of the sheath rearwardly into the filter body from the main spa water inlet opening; and water connection means between the filter bag discharge opening and the suction end of the spa water circulation system whereby upon operation of the spa water circulation system spa water is drawn into the main spa water inlet opening and through the filter bag pocket into the interior of the filter body while concurrently spa water is drawn transversely through the filter bag sheath and auxiliary spa water openings into the confines of the filter body, with all of such spa water flowing rearwardly and then out of the filter body through the filter body discharge orifice.
2. An internal spa filter as set forth in claim 1 which further includes a handle on the filter bag for removing the filter bag from the confines of the filter body.
3. An internal spa filter as set forth in claim 2 wherein the filter body discharge orifice is smaller than the filter body spa water inlet opening whereby spa water flowing through the filter body forms a vortex that traps debris which is too large to pass through the filter bag pocket within the pocket.
4. An internal spa filter as set forth in claim 2 which further includes a support ring which is attached to the sheath to abut the end of the filter body adjacent the spa water inlet opening of such filter body.

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5. An internal spa filter as set forth in claim 1 wherein the auxiliary spa water inlet openings are holes.
6. An internal spa filter as set forth in claim 1 wherein the auxiliary spa water inlet openings are of a mesh-type construction.
7. An internal spa filter as set forth in claim 1 wherein the auxiliary spa water inlet openings are a plurality of axially extending slots.
8. An internal spa filter as set forth in claim 1 wherein the filter body discharge orifice is smaller than the filter body spa water inlet opening whereby spa water flowing through the filter body forms a vortex that traps debris which is too large to pass through the filter bag pocket within the pocket.
9. An internal spa filter as set forth in claim 1 which further includes a support ring which is attached to the sheath to abut the end of the filter body adjacent the spa water inlet opening of such filter body.
10. An internal filter for connecting water from a spa to the suction end of a spa water circulation system, said filter comprising: a filter body that includes a vertically extending cylinder having a spa water inlet opening at its upper end and a spa water discharge orifice at its lower end, the sides of such cylinder being formed with auxiliary spa water inlet openings; a filter bag having a cylindrical sheath which extends upwardly from the lower end of the filter body to the upper end of such filter body, the sheath encompassing the exterior of the filter body, such filter bag also being formed with a pocket that extends concentrically downwardly from the upper end of the sheath downwardly into the filter body from the main spa water inlet opening; and water connection means between the filter bag discharge orifice and the suction end of the spa water circulation system whereby upon operation of the spa water circulation system spa water is drawn downwardly into the main spa water inlet opening and through the filter bag pocket into the interior of the filter body while concurrently spa water is drawn transversely through the filter bag sheath and auxiliary spa water openings into the confines of the filter body, with all of such spa water flowing downwardly out of the filter body through the filter body discharge orifice.
11. An internal spa filter as set forth in claim 10 which further includes a handle on the filter bag for removing the filter bag from the confines of the filter body.
12. An internal spa filter as set forth in claim 11 which further includes a support ring attached to the sheath to abut the end of the filter body adjacent the spa water inlet opening of such filter body.
13. An internal spa filter as set forth in claim 10 wherein the auxiliary spa water inlet openings are holes.
14. An internal spa filter as set forth in claim 10 wherein the auxiliary spa water inlet openings are of a mesh-type construction.
15. An internal spa filter as set forth in claim 10 wherein the auxiliary spa water inlet openings are a plurality of axially extending slots.

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16. An internal spa filter as set forth in claim 10 wherein the filter body discharge orifice is smaller than the filter body spa water inlet opening whereby spa water flowing through the filter body forms a vortex that traps debris which is too large to pass through the filter bag pocket within the pocket.

17. A spa construction, comprising: a tub having water discharge jets; a spa water circulation system that includes a pump; a filter-receiving bay in communication with said tub; a filter body that includes a vertically extending cylinder having a spa water inlet opening at its upper end and a spa water discharge orifice at its lower end, the sides of such cylinder being formed with auxiliary spa water inlet openings; a filter bag having a cylindrical sheath which extends upwardly from the lower end of the filter body to the upper end of such filter body, the sheath encompassing the exterior of the filter body, such filter bag also being formed with a pocket that extends concentrically downwardly from the upper end of the sheath downwardly into the filter body from the main spa water inlet; and piping disposed between the filter body discharge opening and the suction end of the pump and between the discharge end of the pump and the tub water discharge jets whereby upon operation of the pump spa water is drawn from said tub into said bay and then downwardly into the main spa water inlet opening and through the filter bag pocket into the interior of the filter body while concurrently spa water is drawn transversely through the filter bag sheath and auxiliary spa water openings into the confines of the filter body, with all of such spa water flowing downwardly out of the filter body through the filter body discharge orifice and through the water discharge jets back into the tub.

18. A spa construction as set forth in claim 17 which further includes a handle on the filter bag for removing the filter bag from the confines of the filter body and out of the filter-receiving bay.

19. A spa construction as set forth in claim 17 wherein the filter body discharge orifice is smaller than the filter body spa water inlet opening whereby spa water flowing through the filter body forms a vortex within the pocket that traps debris which is too large to pass through the filter bag.

20. A spa construction as set forth in claim 17 wherein the filter bag further includes a support ring to abut the end of the filter body adjacent the spa water inlet opening of the filter body.

21. A method of filtering debris from water contained in a spa, the spa having a spa water circulation system that includes a suction inlet, said method including the steps of: providing a filter body that includes a cylinder having a spa water inlet opening at one end and a spa water discharge orifice at its opposite end, the sides of such cylinder being formed with auxiliary spa water inlet openings; providing a filter bag having a cylindrical sheath that encompasses the exterior of the filter body and a coaxial pocket that extends into the filter body from the spa water inlet openings; and connecting the filter body discharge orifice to the suction inlet of the spa water circulation system whereby upon operation of the spa water circulation system water is drawn axially into the main spa water inlet and through the filter bag pocket into the interior of the filter body, while concurrently water is drawn transversely through the filter bag sheath and auxiliary spa water openings into the confines of the filter body, with all of such spa water flowing through the filter bag and then out of the filter body through the filter body discharge orifice.

22. A method as set forth in claim 21 wherein the filter body discharge orifice is formed smaller than the filter body spa water inlet opening whereby spa water flowing through the filter body creates a vortex that traps debris which is too large to pass through the filter bag pocket within the pocket.

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23. A method as set forth in claim 21 which further includes providing the filter bag with a handle and using the handle to remove the filter bag from the filter body when such filter bag is to be cleaned or replaced.

24. A method as set forth in claim 22 which further includes providing the filter bag with a handle and using the handle to remove the filter bag from the filter body when such filter bag is to be cleaned or replaced.

Claim 21-31 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-24 of U.S. Patent No. 6,685,843. The instant claims recite the combination of a filter with a swimming pool and circulation system. Although the conflicting claims are not identical, they are not patentably distinct from each other because one skilled in the art would have readily appreciated that the invention recited in claims 1-24 of US Patent No. 6,685,843 could be used in a "swimming pool" as opposed to a "spa."

Any inquiry concerning this communication should be directed to Robert J Popovics at telephone number (571) 272-1164.

A handwritten signature in black ink, appearing to read 'R. J. Popovics', with a large, stylized flourish at the end.

Robert James Popovics
Primary Examiner
Art Unit 1724

December 4, 2004